

Message

From: Maignan, Tawanda [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=55FEB19C04B64D36B629242FD3FA4912-TAWANDA MAIGNAN]
Sent: 11/3/2020 2:02:04 AM
To: Rosenblatt, Daniel [Rosenblatt.Dan@epa.gov]
Subject: RE: Press Inquiry - Dicamba - DDL 10/29 COB

Dan – Thanks for sharing the recent dicamba 24c developments. My immediate reaction is in agreement with you to simply remove the entire *Important Information on Requests Under FIFRA 24(c)* box. Alternately, keep the box and replace the current text with the blurb pulled from the registration decision document.

From: Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>
Sent: Monday, November 02, 2020 2:56 PM
To: Maignan, Tawanda <Maignan.Tawanda@epa.gov>
Subject: FW: Press Inquiry - Dicamba - DDL 10/29 COB

Tawanda - - looping you in on this – it's about the 24-c issue involving new or additional mitigations , compared to the section 3.

Take a look at this email thread. Alex met with the states on Friday about it. She's agreeing with OGC that there's no legal basis under the statute for a tighter or more restrictive 24-c. Per Marietta – states not too pleased – indicated they had this flexibility for years and asking if there's another way to have that discretion. Alex said no to SLNs being the way. Marietta indicated that Alex pretty much approached it as a legal decision, and that EPA had no program discretion about whether SLNs could be restrictive in nature. And so she told states if they wanted to impose a restriction – then 24-a rule making was the technique states needed to rely on. Not positive who was on – but Marietta mentioned Leo Reed, Liza, Rose, and Pat from NC.

Marietta wants a larger state group to hear about it and also to be briefed about the decision on dicamba. So another – bigger – meeting with the states to talk about this will be scheduled pretty soon. In the re-organized FEAD – Kaitlin Picone does the liaison work with the states and tribes (formerly Lance W). So Meg Hathaway is reaching out to Kaitlin on it. Word may already be out there. So please relay what questions or blow back come in about this to you.

The AA's office is also asking about the web pages and now wants things "corrected" to align with this decision. I'll email FEAD and see what considerations come up in relation deleting or pulling down the posting on the web that now says – we'll take comment on this before we do anything new. I think that'll need to be a meeting – or discussion. I think we should both participate in that and also the larger state meeting – once that's scheduled if possible.

Please let me know if you have other ideas on this or awareness of additional content that needs to be modified or come off the EPA site now that OGC and the AA's office have decided how they are looking at this topic. Thanks.

From: Lara, Rhina <Lara.Rhina@epa.gov>
Sent: Monday, November 2, 2020 1:01 PM
To: Hathaway, Margaret <Hathaway.Margaret@epa.gov>; Kenny, Daniel <Kenny.Dan@epa.gov>
Cc: Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>; Garrison, Scott <Garrison.Scott@epa.gov>
Subject: RE: Press Inquiry - Dicamba - DDL 10/29 COB

Got it!

From: Hathaway, Margaret <Hathaway.Margaret@epa.gov>
Sent: Monday, November 2, 2020 12:54 PM

To: Lara, Rhina <Lara.Rhina@epa.gov>; Kenny, Daniel <Kenny.Dan@epa.gov>
Cc: Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>; Garrison, Scott <Garrison.Scott@epa.gov>
Subject: RE: Press Inquiry - Dicamba - DDL 10/29 COB

Hi Rhina:

Yes, please work with this text as the basis of EPA's responses.

Thank you,
Meg

From: Lara, Rhina <Lara.Rhina@epa.gov>
Sent: Monday, November 02, 2020 9:03 AM
To: Hathaway, Margaret <Hathaway.Margaret@epa.gov>; Kenny, Daniel <Kenny.Dan@epa.gov>
Cc: Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>; Garrison, Scott <Garrison.Scott@epa.gov>
Subject: RE: Press Inquiry - Dicamba - DDL 10/29 COB

Okay. Looping Scott in. I feel like we may not have specific answers to all of this reporter's questions. For example, I do see a FIFRA 24c memo coming up in December, but we have not started working on the comms for that just yet.

Here is some text straight from the registration decision document. Maybe we can respond with a variation of this?

FIFRA section 24(a) allows a state to regulate pesticides more restrictively than EPA under the state's own authority. However, some of the states that have imposed cut-off dates on dicamba uses have done so under section 24(c). Section 24(c) only authorizes states to issue registrations for additional uses of federal registrations to meet special local needs. Moving forward, if states wish to impose further restrictions on the dicamba products, or any other federally registered pesticides, they should do so under section 24(a) of FIFRA.

Best,
Rhina M. Lara (*she/her/hers*)
Communications Branch
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
Phone: (202) 815- 5722

From: Hathaway, Margaret <Hathaway.Margaret@epa.gov>
Sent: Monday, November 2, 2020 8:38 AM
To: Lara, Rhina <Lara.Rhina@epa.gov>; Kenny, Daniel <Kenny.Dan@epa.gov>
Cc: Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>
Subject: RE: Press Inquiry - Dicamba - DDL 10/29 COB

Hi Rhina:

Marietta told me that she participated in a call with Alex Dunn last week in which Alex made it clear that going forward 24(c) is only appropriate for making the label more expansive and not for adding restrictions.

That is the only feedback I've received from my management on this topic.

Margaret Hathaway (Meg)
Senior Regulatory Specialist
U.S. Environmental Protection Agency
OCSPP: Office of Pesticide Programs

Registration Division – Herbicide Branch
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(703) 305-5076

From: Lara, Rhina <Lara.Rhina@epa.gov>
Sent: Monday, November 02, 2020 8:28 AM
To: Kenny, Daniel <Kenny.Dan@epa.gov>; Hathaway, Margaret <Hathaway.Margaret@epa.gov>
Cc: Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>
Subject: RE: Press Inquiry - Dicamba - DDL 10/29 COB
Importance: High

Good Morning,

Circling back on this press inquiry. Do we have enough information to work on a response? We can run the response by Michele later today, once we have it drafted. Here are the questions:

1. Does the Tuesday dicamba registration decision and announcement re: FIFRA Section 24(c) mark an official change in EPA's position on states' use of Section 24(c)? And if so, has EPA decided to skip the public comment period it committed to on this topic in the spring of 2019?
2. Will this stance on 24c (no state restrictions, only expansions) be applied by EPA uniformly to all future state SLN labels on all pesticides, beyond dicamba?
3. Has EPA's position on this been prompted or influenced by the EPA's Inspector General investigation into states' use of Section 24(c)?
4. Via AAPCO, state regulators have directly petitioned EPA not to take this stance on Section 24(c), which will greatly limit states' ability to react quickly to new dicamba labels, given the cumbersome and time-consuming process of state rulemaking permitted via 24(a). Did EPA consult with state regulators or inform them of this new stance (no restrictions via 24 (c)) before the dicamba decision? Because the state regulators I have spoken to seem taken completely off guard by this announcement by their federal co-regulators.

Best,
Rhina M. Lara (*she/her/hers*)
Communications Branch
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
Phone: (202) 815- 5722

From: Kenny, Daniel <Kenny.Dan@epa.gov>
Sent: Wednesday, October 28, 2020 10:32 AM
To: Lara, Rhina <Lara.Rhina@epa.gov>; Hathaway, Margaret <Hathaway.Margaret@epa.gov>
Cc: Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>
Subject: RE: Press Inquiry - Dicamba - DDL 10/29 COB

This is a tricky one. I'm looping in Dan R, because I think he's more up to date on the 24(c) issue. We will probably also need to loop in OGC (Michele Knorr).

From: Lara, Rhina <Lara.Rhina@epa.gov>
Sent: Wednesday, October 28, 2020 10:03 AM

To: Hathaway, Margaret <Hathaway.Margaret@epa.gov>

Cc: Kenny, Daniel <Kenny.Dan@epa.gov>

Subject: Press Inquiry - Dicamba - DDL 10/29 COB

Importance: High

Hi Dan and Meg,

We got this one from Progressive Farmer. Unfortunately, I am not up to speed on where we left off regarding Section 24© (I know there were some updates recently), so I am sorry for not taking a crack at a response for these.

1. **Does the Tuesday dicamba registration decision and announcement re: FIFRA Section 24(c) mark an official change in EPA's position on states' use of Section 24(c)? And if so, has EPA decided to skip the public comment period it committed to on this topic in the spring of 2019?**
2. **Will this stance on 24c (no state restrictions, only expansions) be applied by EPA uniformly to all future state SLN labels on all pesticides, beyond dicamba?**
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Best,

Rhina M. Lara (*she/her/hers*)

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